

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

Implementation of the )

Pay Telephone Reclassification )

and Compensation Provisions of the )

Telecommunications Act of 1996 )

CC Docket No. 96-128

FCC 96-388

DOCKET FILE COPY ORIGINAL

PETITION FOR RECONSIDERATION AND/OR CLARIFICATION  
OF THE  
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

Pursuant to 47 C.F.R. § 1.106 and 1.429, the National Telephone Association ("NTCA") submits this Petition for Reconsideration and Clarification of the Commission's *Report and Order* released in the above proceeding on September 20, 1996.

NTCA is a national association of approximately 500 local exchange carriers ("LECs"). These LECs provide telecommunications services to end users and interexchange carriers throughout rural America.

In the *Report and Order*, the Commission requires that an incumbent LEC which provides central office coin transmission services to itself must include as part of its access services, a tariff offering to payphone services providers (PSPs). Such tariffs must be cost supported.<sup>1</sup> NTCA requests that the Commission clarify that this requirement may be satisfied by a LEC's participation in a national tariff filed by the National Exchange Carrier Association

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<sup>1</sup> *Report and Order*, FCC 96-388, at paras. 146, 147.

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(NECA) and recover its costs through a NECA administered pool. If the Commission's intent, however, was not to permit such filing and pooling, NTCA requests reconsideration of that decision for the reasons specified below. NTCA also requests that the Commission clarify whether the tariff provisions to be filed with the Commission is limited to those features in addition to existing non-coin access line functionality that are required to implement central office based payphone service. NTCA finally requests that the Commission clarify the costing methodology that will be required and to reconsider, as necessary, methods which are excessively costly for small LECs.

**I. SMALL LECs MUST HAVE THE OPTION TO TARIFF THEIR PAYPHONE SERVICES THROUGH NECA'S ACCESS TARIFFS AND RECOVER COSTS THROUGH THE POOLS.**

Most small LECs currently have very few LEC owned payphones,<sup>2</sup> so that a requirement to file a separate tariff and cost support would require significant expenditures that will far outweigh the cost benefits that might be provided to the public. The cost to provide a cost study and file a tariff for each individual company would be borne by the customers of the small LEC as part of the LEC's cost of doing business.

This cost will vary greatly depending on whether the LEC has cost information available in a format that can be used to conduct a cost study to determine the cost of central office implemented payphone lines. While some small LECs use the cost method for settlements and pooling cost recovery, the majority of small LECs currently use the average schedule method of settlements and normally do not have such information readily available, as this is not required

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<sup>2</sup> See Attachment 1, a list of a sample of small telephone companies, that shows the number of LEC owned payphones per company.

for their ongoing conduct of business. Significant additional costs would be incurred by the small LEC to obtain this information, adding to the total cost of filing company specific tariffs for average schedule LECs. There is little or no economy of scale involved in tariff preparation, so that the subscribers and access customers of the small companies will be burdened with costs to be recovered far in excess of any possible benefits which might be derived from preparing company by company cost based rates.<sup>3</sup> Consequently, if the Commission required such individual cost studies, the result would be a subsidy of payphone services by customers of other services in violation of 47 U.S.C. § 276. There will also be a corresponding substantial increase in the burden on the Commission's staff resources to review 1,300 separate tariffs, cost justification and process challenges to them.

Such costs could be greatly reduced by filing a national tariff with average costs such as is currently done by NECA for other access tariff filings. This would allow for more cost effective elimination of cost support for central office implemented payphone service. The requirement of 47 U.S.C. § 276(b)(1)(B) that cost support be eliminated for payphone lines does not require that the same methodology be utilized to achieve this end for all LECs. Any LEC participating in NECA access tariffs should be permitted to meet its payphone obligations by

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<sup>3</sup> Although the Commission concluded in its *Notice of Proposed Rulemaking* that Subsections 276(b)(1)(A and B) are applicable to all incumbent LECs, n.47, this was apparently not the intent of Congress. The Conference Report states: "Section 274 [the section number in the House Bill which was adopted by the conference] directs the Commission to adopt rules that eliminate all discrimination between BOC and independent payphones and all subsidies or cost recovery for BOC payphones from regulated interstate or intrastate exchange or exchange access revenue...." There is no mention of non-BOC incumbent LECs, indicating at least that it had not occurred to the conferees that the statutory language would be applied to non-BOCs. This history, as well as its obligations under the RF Act, should at least make the Commission sensitive to the disproportionate burdens it is imposing on small LECs.

adding payphone service to such tariffs.

**II. FEDERAL TARIFFS SHOULD BE LIMITED TO SERVICES ADDED TO ENABLE PAYPHONE SERVICES.**

Paragraphs 146 and 147 of the *Report and Order* require tariffs to be filed for “central office coin transmission services” or “payphone services” but does not clarify the exact elements which should be included. NTCA requests that the Commission specify, through clarification or reconsideration, that such services refer to counting and control of coins, fraud protection and other services as described in Paragraph 149, but do not include the loop transmission and switching functions which would remain in the LECs local tariffs. Such a limitation would not only simplify and clarify the cost support required, but would reduce the potential for conflict with state jurisdictions over the pricing of local loops. The Commission’s decision to preempt contrary state regulation is of questionable legality when applied to basic local loops which have historically been considered to be subject to state jurisdiction in accordance with 47 U.S.C. § 152(b). Section 276(c) provides for preemption of inconsistent state regulation, but must be read in the context of Commission regulations necessary to achieve the objectives of Section 276. Limiting federal tariffing to the elements unique to payphone service will accomplish this objective without unnecessary further encroachment on state jurisdiction.

Leaving the local loop serving payphones in local tariffs will also avoid an otherwise apparent need to impose changes in jurisdictional separations to recognize the entire loop costs serving payphones and the resultant revenues as jurisdictionally interstate. The *Report and Order* also does not provide revisions to Part 69 of the Commission’s rules to prescribe procedures for assigning costs and developing rates for “payphone” services. Clarification is requested as to

what methods will be acceptable.

NTCA recognizes that its tariffing recommendations may result in price differences between central office implemented payphone services and station implemented payphone services. However, if both are cost based, the central office service would be expected to have the higher price because there are more functions associated with it. It is not clear, therefore, that the effects of any averaging from the use of national tariffs would cause a material difference in the rates between the two services. To the extent there are differences resulting from national rates, the distortion must be measured in the context of the small size of the markets involved, the minor revenues produced in comparison with the burden on small LECs.<sup>4</sup>

#### CONCLUSION

For the above reasons, NTCA requests that the Commission reconsider and/or clarify its order and rules that require each small LEC to file a separate tariff and cost justification for central office implemented payphone lines.

Respectfully submitted,

NATIONAL TELEPHONE COOPERATIVE  
ASSOCIATION

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October 21, 1996

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<sup>4</sup> A significant percentage of rural LEC provided payphones are "public interest" phones, which, by definition are in non-competitive locations.

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COMPANY	STATE	NECA STUDY AREA NUMBER	DATE YEAR END	TOTAL LEC OWNED PAYPHONE LOOPS	TOTAL USF LOOPS
1 Albion Telephone Company	ID	472213	1995	19	1,010
2 AYRSHIRE TELEPHONE COMPANY	IA	351105	1995	4	362
3 Baca Valley Telephone	NM	492259	1995	17	706
4 BEAR LAKE COMMUNICATIONS	UT	503032	1995	24	613
5 BEAVER CREEK COOP.	OR	532359	1995	8	4,227
6 BLACKFOOT TELEPHONE COOPERATIVE	MT	482235	1995	19	6,947
7 BUSH-TELL	AK	613004	1995	14	754
8 Cambridge Telephone Company	ID	472215	1995	3	944
9 CANBY TELEPHONE ASSN.	OR	532362	1995	27	9,393
10 CASS COUNTY TELEPHONE COMPANY	IL	340948	1995	12	3,032
11 CENTRAL MONTANA COMMUNICATIONS	MT		1995	124	7,526
12 CENTRAL UTAH TELEPHONE CO	UT	502277	1995	14	1,222
13 Chugwater Telephone Company	WY	512289	1995	5	266
14 CHURCHILL COUNTY TELEPHONE	NV	552349	1995	134	11,195
15 Citizens Telephone	MO	421865	1995	36	3,837
16 CLEAR CREEK MUTUAL TELEPHONE	OR	532363	1995	7	3,447
17 COLTON TELEPHONE COMPANY	OR	532364	1995	6	1,167
18 CORDOVA TELEPHONE COOPERATIVE	AK	613007	1995	15	1,846
19 C-R Telephone Company	IL	341009	1995	4	949
20 DELL TELEPHONE COOP. (TX)	TX	442066	1995	27	664
21 Dubois Telephone Exchange	WY	512291	1995	38	2,079
22 EAGLE TELEPHONE	OR	532369	1995	4	389
23 EAST ASCENSION TELEPHONE CO.	LA	270429	1995	243	29,891
24 EGYPTIAN TELEPHONE COOPERATIVE	IL	241003	1995	17	2,641
25 ELLENSBURG TEL. CO.	WA	522412	1995	162	19,933
26 EMERY TELEPHONE COMPANY	UT	502278	1995	24	4,245
27 GERVAIS TELEPHONE CO.	OR	532373	1995	4	918
28 GRAND RIVER IOWA	IA	351888	1995	38	5,923
29 GRAND RIVER MO	MO	421888	1995	66	13,890
30 HARDY TELEPHONE CO	WV	200529	1995	14	2,681
31 HELIX TELEPHONE COMPANY	OR	532376	1995	4	264
32 Home Telephone Company	IL	341032	1995	8	912
33 INTERBEL	MT	482242	1995	6	1,409
34 LINCOLN COUNTY TELEPHONE SYSTEM	NV	552351	1995	29	1,992
35 MIDVALE TELEPHONE EXCHANGE ID	ID	472226	1995	6	428
36 MIDVALE TELEPHONE EXCHANGE AZ	AZ	452226	1995	4	446
37 MIDVALE TELEPHONE EXCHANGE OR	OR	532226	1995	3	205
38 MONITOR COOPERATIVE	OR	532384	1995	4	654
39 Montrose Mutual Telephone Comp	IL	341058	1995	10	1,468

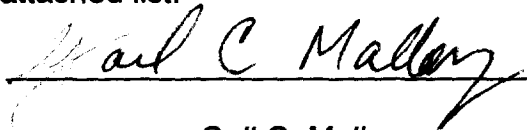
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40 MOULTRIE INDEPENDENT TELEPHONE	IL	341060	1995	6	778
41 MUKLUK	AK		1995	29	1,025
42 NEHALEM TELEPHONE & TELEGRAPH	OR	532387	1995	12	2,721
43 NORTH-STATE TELEPHONE	OR	532388	1995	2	502
44 OREGON TELEPHONE	OR	532389	1995	17	1,725
45 OREGON-IDAHO UTILITIES	OR	532390	1995	7	1,725
46 Peetz Cooperative Telephone Co	CO	462196	1995	2	201
47 PINE TELEPHONE	OR	532392	1995	7	767
48 PIONEER TELEPHONE COOPERATIVE	OR	532393	1995	63	13,496
49 Price County Telephone Co.	WI	330937	1995	37	4,379
50 RANGE MONTANA	MT	482251	1995	41	3,808
51 RANGE WYOMING	WY	512251	1995	20	16,634
52 Rico Telephone Company	CO	462201	1995	1	136
53 Rockland Telephone Company	ID	472232	1995	10	343
54 Roggen Telephone Cooperative C	CO	462202	1995	3	233
55 Roome Telecommunications Inc.	OR		1995	1	733
56 Roosevelt County Telephone	NM	492272	1995	16	1,693
57 RURAL TELEPHONE CO	ID	472233	1995	17	397
58 S & A Telephone Company	KS	411829	1995	3	886
59 SHAWNEE TELEPHONE COMPANY	IL	341025	1995	31	4,755
60 SISKIYOU TELEPHONE	CA	542339	1995	63	4,326
61 SOUTHERN MONTANA	MT		1995	16	891
62 STAYTON COOPERATIVE TELEPHONE	OR	532399	1995	47	6,075
63 Table Top Telephone Company	AZ	453334	1995	45	4,050
64 TRANS-CASCADES TELEPHONE CO.	OR	532378	1995	2	145
65 TRIANGLE TELEPHONE COOPERATIVE	MT	482257	1995	72	9,362
66 Webb-Dickens	IA	351327	1995	2	440
67 West River Telecommunications	ND	381637	1995	76	9,649
68 WESTERN WAHKIAKUM COUNTY TEL.	WA	522451	1995	20	985

**CERTIFICATE OF SERVICE**

I, Gail C. Malloy, certify that a copy of the foregoing Petition for Reconsideration and Clarification of the National Telephone Cooperative Association in CC Docket No. 96-128 was served on this 21st day of October 1996, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list:

A handwritten signature in cursive script, reading "Gail C. Malloy", is written over a horizontal line.

Gail C. Malloy



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